



April 23, 2018

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

RE: February 21, 2018 Proposed Regulations regarding Short-Term, Limited-Duration Insurance [CMS–9924–P]

Dear Administrator Verma,

On behalf of the undersigned organizations of the Obesity Care Advocacy Network (OCAN), we would like to express our concern regarding the February 21, 2018 Proposed Regulations on Short-Term, Limited-Duration Insurance [CMS–9924–P], which have been issued by the Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; and Centers for Medicare & Medicaid Services, Department of Health and Human Services (the Tri-Agencies).

OCAN is a diverse group of organizations that have come together with the purpose of changing how we perceive and approach the problem of obesity in this nation. As part of this effort, we strive to: prevent disease progression, improve access to evidence-based treatments for obesity, improve standards of quality care in obesity management, eliminate weight bias, and foster innovation in future obesity treatments. For these reasons, we were concerned by the proposed regulations, which would resurrect the ability of health plans to employ many of the discriminatory coverage practices that were the impetus behind passage of the Affordable Care Act (ACA).

According to the February 2018 proposed regulations, the rule would amend the definition of short-term, limited-duration insurance to include those offering a maximum coverage period of less than 12 months and that “this action is being taken to lengthen the maximum period of short-term, limited-duration insurance, which will provide more affordable consumer choice for health coverage.”

While such a move is being proposed to provide more affordable health plans for young and healthy consumers, we are concerned that expansion of these types of insurance products could have a deterring effect on patient access to care in the individual health insurance market. Proliferation of these short-term health plans will lead to adverse selection and subsequent instability in the reformed non-group market – significantly raising the cost of coverage for people affected by obesity or other serious chronic health conditions. Additionally, short-term, limited-duration health plans are

not subject to the key patient protections encompassed under the ACA, such as minimum coverage standards and rules that prohibit medical underwriting, rescissions, pre-existing condition exclusions, and lifetime and annual limits.

Before enactment of the ACA, short-term, limited-duration insurance was an important means for individuals to obtain health coverage when transitioning from one job to another (and from one group health plan to another) or when faced with other similar situations. However, with guaranteed availability of coverage and special enrollment period requirements in the individual health insurance market under the ACA, individuals can now purchase coverage with all of the above mentioned ACA-mandated patient protections to fill in these gaps in coverage.

Increasingly, many health plans began offering these short-term policies as alternatives to ACA-compliant major medical policies – offsetting key patient protections and the long-term stability of the reformed non-group market. OCAN and other patient and healthcare professional groups were pleased when the Tri-Agencies issued new regulations in October 2016 to limit the length of these plans to less than 3-months to be consistent with the ACA individual mandate exemption for short periods (defined as less than 3 months) of non-coverage. Healthcare advocates also embraced the October 2016 regulations that mandate prominent consumer notices be included on all short term plans that coverage does not constitute qualifying minimal essential health coverage for purposes of satisfying the individual mandate.

We believe that the Tri-Agencies acted appropriately, and in agreement with the majority of public commenters who supported the changes outlined in the October 2016 regulations for short-term, limited-duration health plans. The original intent of these plans was to serve as a short-term coverage bridge – not a viable alternative to meaningful healthcare coverage. For these reasons, we firmly oppose the Tri-Agencies' February 21, 2018 proposed regulations.

Thank you again for your consideration of these comments, should you have any questions, please contact OCAN Washington Office Director Christopher Gallagher at 571-235-6475 or via email at [chris@potomaccurrents.com](mailto:chris@potomaccurrents.com).

Sincerely,

Academy of Nutrition and Dietetics  
American Academy of PAs  
American Society for Metabolic and Bariatric Surgery  
Black Women's Health Imperative  
Endocrine Society  
Novo Nordisk, Inc.  
Obesity Action Coalition  
Obesity Medicine Association  
SECA  
The Obesity Society  
The Redstone Center